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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/710,272

06/30/2004

Bruce Bennett Doris

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02/23/2010

MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC

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SUITE 200

VIENNA, VA 22182-3817

EXAMINER

TSAL, H JEY

ART UNIT

PAPER NUMBER

2895

MAIL DATE

DELIVERY MODE

02/23/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/710,272

Applicant(s)

DORIS ET AL.

Examiner

H.Jey Tsai

Art Unit

2895

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 February 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-4, 6, 10-15 and 23-30.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s) _____.
13. ☐ Other: _____.

/H.Jey Tsai/
Primary Examiner, Art Unit 2895

Continuation of 11. does NOT place the application in condition for allowance because: Applicant contends that Examiner clearly confused ... and points to paragraph 65 of Curie. However, Examiner pointed to para. 16, 77, 87 of Curie in last office action.

Currie et al. clearly teaches forming at least one localized stressor region (trench) 150 within said device (see fig. 10E), the at least one localized stressor region 150 being located on one of fin connectors (at the end of fin 18) connecting fin 18 as a region of stressor material filling in an interior portion of said fin connector (at the end of fin 18), para. 77. And para. 87 of Currie teach that embodiments of this invention may also be applicable to transistors with multiple or wrap-around gates. Examples of these include fin-FETs, tri-gate FETs, omega-FETs, and double-gate FETs (the channels of which may be oriented horizontally or vertically), hence, the localized stressor trench region 150 (see fig. 10E) located on the fin connector (at the end of fin 18) that is between transistor 106 and transistor 106' that can be applicable to the FinFET (Fin Field Effect Transistor). A plurality of fins 18 interconnected by fin connectors, such as fin-FETs, tri-gate FETs etc. Currie et al. teaches, the fin includes channel 108 and fin 18, fin connector/pad (source/drain) 150, gate 110, gate dielectric 114. And Chen et al. teaches in figs. 3-5, fin-FET having fin connectors 36 or S or D connecting fin 12 or 21, Sugii et al. teaches in figure 28, fin-FET having fin connectors 4 connecting fin 5. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have recognized that localized stressor trench (recess) region can be formed on a fin connector as shown in fig. 28 of Sugii et al. or figs. 3-5 of Chen et al. because fin connector connects source/drain regions of two FET transistors together.

Applicant contends that structure 18 in fig. 10D of Currie et al. is merely the lower layer of the sidewall spacer structure 120, 122. This is not found persuasive because structure 18 is a silicon fin as shown in fig. 10B-10E. Sidewall spacer structures 120, 122 are formed on sidewall of the gate electrode after forming gate electrode 110 (see para. 65). Gate electrode 110 is formed on silicon structure 18. (see para. 65).

Since, Currie et al. teaches forming localized stressor regions (see fig. 10E, 11) within the device on the fin connector as comprising of stressor material filling in an interior portion of the fin connector can be applicable to transistors with multiple or wrap-around gates. Examples of these include fin-FETs, tri-gate FETs, omega-FETs, and double-gate FETs (the channels of which may be oriented horizontally or vertically), and Sugii et al. or Chen teaches a fin-FET having fin connectors, hence the combination of Currie and Sugii or Chen is proper.

Therefore, it is clearly that the combination of Currie and Sugii or Chen meets the doctrine of U.S. Supreme Court in KSR international v. Teleflex of "a person of ordinary skill can implement a predictable variation, §103 likely bars its patentability". And, it is also clearly that the combination of Currie and Sugii or Chen meets the doctrine of U.S. Supreme Court in KSR international v. Teleflex of "If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show that it was obvious under §103".